

AMENDED IN ASSEMBLY JUNE 29, 2011

AMENDED IN SENATE MAY 11, 2011

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 645

Introduced by Senator Simitian

(Principal coauthor: Assembly Member Brownley)

(Coauthor: Senator Alquist)

February 18, 2011

An act to amend Sections ~~47607 and 47607.5~~ 17183, 17199.1, 17199.3, 47607, and 47614.5 of the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 645, as amended, Simitian. Charter schools: charter renewal.

(1) Existing law establishes the California School Finance Authority, and authorizes the authority to issue revenue bonds to finance a single or series of projects or financing of working capital for a single or several participating parties, defined as a school district, charter school, county office of education, or community college district that undertakes the financing or refinancing of a project or of working capital, or a joint venture school facility construction project.

This bill would authorize the authority to issue revenue bonds to refinance those projects.

The

(2) The Charter Schools Act of 1992 (Charter Schools Act) specifies the procedures for the submission, review, and approval or denial of a petition to establish a charter school. The Charter Schools Act limits the duration of charters to a period not to exceed 5 years; and authorizes

the chartering authority to grant one or more subsequent renewals for an additional period of 5 years. The Charter Schools Act prescribes the requirements a charter school must meet in order to have its charter renewed, including a requirement that a charter school that has been in operation for 4 years satisfy at least one of several specified criteria regarding academic performance.

This bill would change the criteria a charter school is required to meet in order to have its charter renewed.

The bill would authorize a charter school not meeting the renewal criteria to apply to the State Board of Education for a determination of academic eligibility for the renewal of its charter by submitting *supporting evidence of the school's academic success to the state board and the Superintendent of Public Instruction*. The bill would require the ~~advisory committee that is appointed by the state board to recommend criteria to the state board for the determination of funding for nonclassroom-based instruction to publicly hear an application for the determination of academic eligibility and~~ *Superintendent to make a recommendation to the state board on the application*. The bill would require the state board to issue a positive determination of academic eligibility if the state board finds that the charter school ~~adequately demonstrates that the academic performance of the charter school meets or exceeds its predicted performance based on a statistical evaluation of similar pupil populations;~~ *clearly demonstrates that the academic performance of the school's pupils builds an expectation that the pupils will continue to improve academically and have the opportunity to be successful in college or career*. *A charter renewal based on a determination of academic eligibility would be granted for only 3 years.*

The bill also would make a conforming change.

(3) Existing law establishes the Charter School Facility Grant Program to provide assistance with facility rent and lease costs for pupils in charter schools, and states the intent of the Legislature that not less than \$18,000,000 annually be appropriated for purposes of the program. Eligibility for a grant is based on the percentage of pupils who are eligible for free and reduced-price meals and are enrolled in the charter school or reside in the attendance area of, or are enrolled in, the public elementary school where the charter school is physically located. Eligible schools receive up to \$750 per unit of average daily attendance for a maximum of 75% of the annual facilities rent and lease costs for the charter school. Funds appropriated for purposes of the program are prohibited from being apportioned for units of average

daily attendance generated through nonclassroom-based instruction, as defined, or for a school that does not comply with conditions or limitations set forth in regulations adopted by the state board.

This bill would increase the amount eligible schools receive to \$800 per unit of average daily attendance. The bill would require eligibility for this grant program to be expanded if funds remain after charter schools that meet the existing free and reduced-price meals threshold are funded. The bill would remove the prohibition against funding for units of average daily attendance that do not comply with conditions or limitations set forth in regulations, and would allow eligibility to be expanded, as specified, for charter schools that generate units of average daily attendance through nonclassroom-based instruction if the school operates facilities that provide direct instruction and support to enrolled pupils.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17183 of the Education Code is amended
2 to read:

3 17183. (a) From time to time, the authority may, by resolution,
4 issue its revenue bonds in order to provide funds for any of the
5 purposes of this chapter. Bonds may be issued to finance *or*
6 refinance any of the following:

7 (1) A single project or financing of working capital for a single
8 participating party.

9 (2) A series of projects or financings of working capital for a
10 single participating party.

11 (3) A single project or financing of working capital for several
12 participating parties.

13 (4) Several projects or ~~financing~~ financings of working capital
14 for several participating parties.

15 (5) A joint venture school facilities construction project
16 undertaken pursuant to Article 5 (commencing with Section 17060)
17 of Chapter 12.

18 (b) Except as otherwise expressly provided by the authority, all
19 revenue bonds shall be payable from any available revenues or
20 moneys of the authority not otherwise pledged, subject only to any
21 agreements with holders of particular bonds or notes pledging any

1 particular revenue or moneys. Notwithstanding that revenue bonds
2 issued pursuant to this section may be payable from a special fund,
3 the revenue bonds shall be, and shall be deemed to be for all
4 purposes, negotiable instruments, subject only to the provisions
5 of the revenue bonds for registration.

6 (c) The revenue bonds of the authority may be issued as serial
7 bonds, term bonds, or the authority, in its discretion, may issue
8 bonds of both types. The issuance shall be in accordance with the
9 indenture, trust agreement, or resolution relating to the revenue
10 bonds, which shall provide all of the following:

- 11 (1) The date or dates of the bonds.
- 12 (2) The date or dates upon which the bonds will mature, not to
13 exceed 40 years from their respective dates.
- 14 (3) The interest rate or rates, or methods of determining the
15 interest rate or rates, of the bonds.
- 16 (4) When the bonds are payable.
- 17 (5) The denominations of the bonds.
- 18 (6) The form of the bonds, which shall be either bearer or
19 registered.
- 20 (7) The registration privileges of the bonds.
- 21 (8) The manner in which the bonds are to be executed.
- 22 (9) The place or places at which the bonds shall be payable in
23 lawful money of the United States of America.
- 24 (10) The terms of redemption of the bonds.

25 (d) After giving due consideration to the recommendations of
26 the participating party or parties, the revenue bonds of the authority
27 shall be sold by the Treasurer at either a public or private sale at
28 a price or prices, and upon the terms and conditions prescribed by
29 the authority. The revenue bonds of the authority may be sold at,
30 above, or below the par value of the bonds.

31 (e) Pending the preparation of the definitive bonds, the authority
32 may issue interim receipts or certificates or temporary bonds that
33 shall be exchanged for the definitive bonds.

34 (f) Any resolution authorizing the issuance of any bonds of the
35 authority, or any issue of revenue bonds of the authority, may
36 include any of the following provisions:

- 37 (1) Provisions pledging all or any part of the proceeds of the
38 bonds or revenue of a project or loan.
- 39 (2) Provisions concerning the replacement of mutilated,
40 destroyed, stolen, or lost bonds.

1 (3) Provisions specifying insurance to be maintained on the
2 project and the authorized uses of the proceeds of the insurance.

3 (4) Covenants against the mortgaging or otherwise encumbering,
4 selling, leasing, pledging, placing a charge upon, or otherwise
5 disposing of the project prior to the payment of the bonds issued
6 to finance the project.

7 (5) Provisions specifying the events of default, terms upon which
8 the bonds may be declared due before maturity, and the terms upon
9 which the declaration and its consequences may be waived.

10 (6) The rights, liabilities, powers, and duties arising upon the
11 breach of any covenants, conditions, or obligations.

12 (7) Vesting of the right to enforce covenants in a trustee.

13 (8) The terms upon which all or any percentage of the
14 bondholders may enforce covenants or duties.

15 (9) Procedures for amending the terms of the resolution, with
16 or without the consent of the holders of a specified number of
17 bonds.

18 (10) Provision for any other acts or things deemed necessary,
19 convenient, or desirable by the authority to secure the bonds or
20 improve their marketability.

21 (g) The validity of the authorization and issuance of any bond
22 issue shall not be affected by proceedings for the acquisition,
23 construction, or improvement of any project, or by contracts
24 relating to those proceedings. Any resolution authorizing the
25 issuance of any bonds of the authority may provide authorization
26 for the bonds to bear a statement certifying that they are issued
27 pursuant to this chapter. Bonds bearing that statement shall be
28 conclusively deemed valid and issued in conformity with this
29 chapter. Reference on the face of the bonds to the resolution by
30 its date of adoption shall incorporate the provisions of the
31 resolution and of this chapter into the terms of the bonds.

32 (h) Members of the authority, or any person executing the
33 revenue bonds of the authority, shall not incur personal liability
34 on the bonds, nor shall these persons incur personal liability or
35 accountability by reason of the issuance of the revenue bonds of
36 the authority.

37 (i) The authority is authorized, out of any funds available for
38 that purpose, to purchase revenue bonds of the authority. The
39 authority may hold, pledge, cancel, or resell any bonds purchased

1 under the authority of this subdivision, subject to, and in
2 accordance with, agreements with bondholders.

3 (j) The financing or refinancing of projects or working capital
4 may be provided pursuant to this chapter by means other than
5 revenue bonds, at the discretion of the authority, including
6 financing or refinancing through certificates of participation, or
7 other interests, in bonds, loans, leases, installment sales, or other
8 agreements of the participating party or parties. In this connection,
9 the authority may do all things and execute and deliver all
10 documents and instruments as may be necessary or desirable with
11 regard to issuance of the certificates of participation or other means
12 of financing or refinancing.

13 (k) The authority may by resolution issue its revenue bonds in
14 the form of commercial paper.

15 *SEC. 2. Section 17199.1 of the Education Code is amended to*
16 *read:*

17 17199.1. (a) Any participating party, exclusively for the
18 purpose of securing financing or refinancing of projects or working
19 capital pursuant to this chapter through the issuance, by the
20 authority, of revenue bonds, certificates of participation, or other
21 means, and notwithstanding any other provision of law, may: (1)
22 sell to the authority all or part of any rights to or possibilities
23 regarding the state's share of funding for school facilities approved
24 by the State Allocation Board pursuant to Chapter 12.5
25 (commencing with Sec. 17070.10), including amounts apportioned
26 and funded and amounts approved but not yet funded by the State
27 Allocation Board from proceeds of state bonds already authorized
28 by the electors but not yet issued; (2) issue bonds to the authority;
29 or (3) borrow money or purchase or lease educational facilities
30 from the authority, and in connection therewith, sell or lease
31 property to the authority, in each case at any interest rate or rates,
32 rental provisions, with any maturity date or dates or term, and with
33 any other transfer, assignment, payment, security, default, remedy,
34 and other terms or provisions as may be specified in the sale of
35 rights agreement or the bonds of the participating party or a loan,
36 loan purchase, installment sale, lease, or other agreement between
37 the authority and the participating party, subject to the following
38 conditions:

39 (A) The sum of the amount borrowed to finance *or refinance*
40 working capital and the interest payable thereon at the initial

1 interest rate if interest is variable, shall not exceed 85 percent of
2 the estimated amount of uncollected taxes, income, revenue, cash
3 receipts, and other funds received by the participating party, which
4 will be available in any fiscal year for the repayment of the loan
5 and the interest thereon. For purposes of this paragraph, “revenue”
6 includes, but is not limited to, federal and state funds received by
7 the participating party.

8 (B) In computing the maximum amount that may be borrowed
9 in any fiscal year pursuant to subparagraph (A), the participating
10 party may exclude the amount of any principal or interest which
11 is secured by a pledge of the amount in any inactive or term deposit
12 of the participating party which has a term scheduled to terminate
13 during that fiscal year.

14 (C) A participating party that borrows money to finance *or*
15 *refinance* working capital pursuant to this subdivision shall be
16 required to repay and discharge the loan, including interest, within
17 15 months of the loan date.

18 (D) In enacting this chapter, it is the intent of the Legislature to
19 provide financing *or refinancing* of working capital needed to
20 cover temporary or cashflow deficits and needs for working capital
21 and not long-term budget deficits or shortfalls in funding. The
22 participating party must demonstrate to the satisfaction of the
23 authority that, during the term of any working capital loan received
24 pursuant to this chapter, the participating party will receive or
25 otherwise have (without additional borrowing) sufficient funds to
26 repay and discharge the loan. The participating party may take
27 into account all funds received by the participating party and may
28 base future projections upon historical experience or reasonable
29 expectations, or a combination thereof.

30 (b) Notwithstanding Sections 700, 703, and 1045 of the Civil
31 Code, the rights and possibilities that a participating party may
32 have or obtain in the future to an approved state contribution to
33 funding for school facilities pursuant to Chapter 12.5 (commencing
34 with ~~See: Section~~ 17070.10) that remains unfunded pending the
35 issuance of state bonds already authorized by the electors shall
36 constitute property for all purposes and may be transferred as
37 provided in subdivision (a). In the case of any transfer or
38 assignment of rights or possibilities relating to funds for which
39 bonds have been approved by the voters but are not yet available,

1 the transfer or assignment shall be approved by resolution of the
2 State Allocation Board prior to becoming effective.

3 (c) Any participating party may enter into any agreement for
4 liquidity or credit enhancement, with any reimbursement, payment,
5 interest, security, default, remedy, and other terms it may deem
6 necessary or appropriate in connection with the issuance of bonds,
7 the borrowing of money or the lease or purchase of educational
8 facilities, whichever is applicable. Any participating party or parties
9 ~~may~~ also *may* do all things and execute all documents as may be
10 necessary or desirable in connection with the issuance of
11 certificates of participation, or other interests, in any bond, loan,
12 note, installment sale, lease, or other agreement of the participating
13 party.

14 (d) A school district may by resolution authorize any county or
15 city board of education or superintendent of schools, a community
16 college district may by resolution authorize the Board of Governors
17 of the California Community Colleges or the Chancellor of the
18 California Community Colleges, and a charter school may by
19 resolution authorize its chartering entity or educational
20 management organization, to act as its agent in the performance
21 of any of the matters permitted by this section or any other
22 provision of this chapter. Notwithstanding any other provision of
23 law, the agent shall have the powers granted by the resolution for
24 purposes of this chapter. The resolution shall be deemed to bind
25 the school district, charter school, or community college district,
26 as the case may be, to any contract, agreement, instrument, or other
27 document executed by the agent on behalf of the school district,
28 charter school, or community college district, and all duties,
29 obligations, or responsibilities contained therein on the part of the
30 school district, charter school, or community college district, to
31 the same extent as if duly authorized, executed, and delivered by
32 the school district, charter school, or community college district.

33 (e) This section shall be deemed to provide a complete,
34 additional, and alternative method for accomplishing the acts
35 authorized by this section, and the sale or transfer of any rights to
36 or possibilities regarding the state share of funding for school
37 facilities approved by the State Allocation Board including amounts
38 apportioned and funded and amounts approved but not yet funded
39 from proceeds of state bonds already authorized by the electors
40 but not yet issued, issuance of bonds to, borrowing of money from,

or sale or purchase or lease of educational facilities from or to, the authority. Any agreement entered into in connection with the transfer of any rights to or possibilities regarding the state contribution for funding for school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10), including amounts apportioned and funded and amounts approved but not yet funded by the State Allocation Board from proceeds of state bonds already authorized by the electors but not yet issued, or the issuance of bonds, the borrowing of money or the sale, purchase, or lease of educational facilities, including, without limitation, any agreement for liquidity or credit enhancement under this section, need not comply with the requirements of any other law applicable to issuance of bonds, borrowing, selling, purchasing, leasing, pledge, encumbrance, or credit, as the case may be, by a school district, charter school, or community college district, or by a county or city board of education or superintendent of schools, or the Board of Governors of the California Community Colleges or Chancellor of the California Community Colleges, or the governing board of a charter school, chartering entity, or educational management organization.

SEC. 3. Section 17199.3 of the Education Code is amended to read:

17199.3. (a) The total amount of revenue bonds which may be issued and outstanding at any time for purposes of this chapter, other than those revenue bonds issued under Section 17199.4, shall not exceed four hundred million dollars (\$400,000,000).

(b) The total amount that may be outstanding at any time under this chapter, for purposes of Section 17199.4 only, shall not exceed four billion dollars (\$4,000,000,000).

(c) For purposes of subdivisions (a) and (b), bonds which meet any of the following conditions shall not be deemed to be outstanding:

(1) Bonds which have been refunded pursuant to Section 17188.

(2) Bonds for which money or securities in amounts necessary to pay or redeem the principal, interest, or any redemption premium on the bonds have been deposited in trust.

(3) Bonds ~~which~~ *that* have been issued to ~~provide finance or~~ *refinance* working capital.

SEC. 4. Section 47607 of the Education Code is amended to read:

1 47607. (a) (1) A charter may be granted pursuant to Sections
2 47605, 47605.5, and 47606 for a period not to exceed five years.
3 A charter granted by *the governing board of* a school district
4 ~~governing board~~, a county board of education, or the state board,
5 may be granted one or more subsequent renewals by that entity.
6 Each renewal shall be for a period of five years. A material revision
7 of the provisions of a charter petition may be made only with the
8 approval of the authority that granted the charter. The authority
9 that granted the charter may inspect or observe any part of the
10 charter school at any time.

11 (2) Renewals and material revisions of charters are governed
12 by the standards and criteria in Section 47605, and shall include,
13 but not be limited to, a reasonably comprehensive description of
14 any new requirement of charter schools enacted into law after the
15 charter was originally granted or last renewed.

16 ~~(b) Commencing on January 1, 2005, or after a charter school~~
17 ~~has been in operation for four years, whichever date occurs later,~~
18 ~~a charter school shall meet at least one of the following criteria~~
19 ~~prior to receiving a charter renewal pursuant to paragraph (1) of~~
20 ~~subdivision (a):~~

21 ~~(1) Attained its Academic Performance Index (API) growth~~
22 ~~target in the prior year or in two of the last three years, or in the~~
23 ~~aggregate for the prior three years.~~

24 ~~(2) Ranked in deciles 4 to 10, inclusive, on the API in the prior~~
25 ~~year or in two of the last three years.~~

26 ~~(3) Ranked in deciles 4 to 10, inclusive, on the API for a~~
27 ~~demographically comparable school in the prior year or in two of~~
28 ~~the last three years.~~

29 ~~(4) (A) The entity that granted the charter determines that the~~
30 ~~academic performance of the charter school is at least equal to the~~
31 ~~academic performance of the public schools that the charter school~~
32 ~~pupils would otherwise have been required to attend, as well as~~
33 ~~the academic performance of the schools in the school district in~~
34 ~~which the charter school is located, taking into account the~~
35 ~~composition of the pupil population that is served at the charter~~
36 ~~school.~~

37 ~~(B) The determination made pursuant to this paragraph shall be~~
38 ~~based upon all of the following:~~

39 ~~(i) Documented and clear and convincing data.~~

1 ~~(ii) Pupil achievement data from assessments, including, but~~
2 ~~not limited to, the Standardized Testing and Reporting Program~~
3 ~~established by Article 4 (commencing with Section 60640) for~~
4 ~~demographically similar pupil populations in the comparison~~
5 ~~schools.~~

6 ~~(iii) Information submitted by the charter school.~~

7 ~~(C) A chartering authority shall submit to the Superintendent~~
8 ~~copies of supporting documentation and a written summary of the~~
9 ~~basis for any determination made pursuant to this paragraph. The~~
10 ~~Superintendent shall review the materials and make~~
11 ~~recommendations to the chartering authority based on that review.~~
12 ~~The review may be the basis for a recommendation made pursuant~~
13 ~~to Section 47604.5.~~

14 ~~(D) A charter renewal may not be granted to a charter school~~
15 ~~prior to 30 days after that charter school submits materials pursuant~~
16 ~~to this paragraph.~~

17 ~~(5) Has qualified for an alternative accountability system~~
18 ~~pursuant to subdivision (h) of Section 52052.~~

19 *(b) The authorizer of a charter school that has been in operation*
20 *for at least four years shall not consider or grant the renewal of*
21 *the school's charter unless the school, based on data available as*
22 *of October 1 of the fiscal year of the renewal, meets at least one*
23 *of the following criteria:*

24 *(1) An Academic Performance Index (API) score of at least 700*
25 *in the most recent year.*

26 *(2) Academic growth of at least 50 points over the prior three*
27 *years as measured by the API, using the most recent data available.*

28 *(3) A rank in 6 to 10, inclusive, on the API for a*
29 *demographically comparable school in the prior year or in two of*
30 *the prior three years.*

31 *(4) Participation in the alternative accountability system*
32 *developed pursuant to subdivision (h) of Section 52052. If*
33 *subdivision (h) of Section 52052 is repealed or no longer operative,*
34 *a dropout recovery high school, as defined in subparagraph (D)*
35 *of paragraph (4) of subdivision (a) of Section 52052, shall meet*
36 *the criteria of this paragraph.*

37 *(5) Receipt of a positive determination of academic eligibility*
38 *for renewal from the state board within the prior 12 months.*

39 *(c) (1) A charter school shall apply to the state board for a*
40 *determination of academic eligibility pursuant to paragraph (5)*

1 of subdivision (b) if it chooses to submit its charter for renewal
2 and either of the following applies:

3 (A) The charter school does not meet at least one of the criteria
4 set forth in paragraphs (1) to (4), inclusive, of subdivision (b).

5 (B) The charter school has entered into year five of program
6 improvement, pursuant to the federal No Child Left Behind Act of
7 2001 (20 U.S.C. Sec. 6301 et seq.), has not exited program
8 improvement, and does not meet at least two criteria set forth in
9 paragraphs (1) to (3), inclusive, of subdivision (b).

10 (2) Subparagraph (B) of paragraph (1) shall not be used as one
11 of the criteria for identifying a school that may seek a
12 determination of academic eligibility if the Secretary of the United
13 States Department of Education grants a waiver to the state related
14 to the suspension or delay in requirements of all schools in
15 program improvement.

16 (d) (1) Evidence supporting an application submitted pursuant
17 to subdivision (c) shall be submitted to the state board and the
18 Superintendent and may include, but is not limited to, information
19 on individual pupil achievement, including longitudinal data that
20 demonstrates individual pupil progress, analysis of similar pupil
21 populations, or other relevant data as determined by the school.

22 (2) The Superintendent shall make a recommendation, based
23 on evidence provided by the charter that is valid and reliable, to
24 the state board on the application for a determination of academic
25 eligibility for the renewal of a charter. The Superintendent's
26 recommendation shall include an analysis of the validity and
27 reliability of the evidence of academic success submitted by the
28 charter school.

29 (3) The state board shall issue a positive determination of
30 academic eligibility if the state board finds that the charter school
31 clearly demonstrates that the academic performance of the school's
32 pupils builds an expectation that the pupils will continue to improve
33 academically and have the opportunity to be successful in college
34 or career. In determining whether to grant a positive determination
35 of academic eligibility, the state board shall consider that the
36 farther the school is from satisfying paragraphs (1) to (3),
37 inclusive, of subdivision (b), the greater the burden of proof on
38 the school to demonstrate why the school was unable to satisfy the
39 criteria in paragraphs (1) to (3), inclusive, of subdivision (b) and

1 *demonstrate why the academic performance is such that the school*
2 *deserves a positive determination of academic eligibility.*

3 (4) *The charter of a charter school that is required to apply to*
4 *the state board for a determination of academic eligibility, if the*
5 *school chooses to submit its charter for renewal pursuant to*
6 *subdivision (c) and is granted renewal by satisfying paragraph*
7 *(5) of subdivision (b), shall be granted renewal for only three*
8 *years.*

9 ~~(e)~~

10 (e) A charter may be revoked by the authority that granted the
11 charter under this chapter if the authority finds, through a showing
12 of substantial evidence, that the charter school did any of the
13 following:

14 (1) Committed a material violation of any of the conditions,
15 standards, or procedures set forth in the charter.

16 (2) Failed to meet or pursue any of the pupil outcomes identified
17 in the charter.

18 (3) Failed to meet generally accepted accounting principles, or
19 engaged in fiscal mismanagement.

20 (4) Violated any provision of law.

21 ~~(d) Prior to revocation, the authority that granted the charter~~

22 (f) *Before revoking a charter, the chartering authority shall*
23 *notify the charter public school of any violation of this section and*
24 *give the school a reasonable opportunity to remedy the violation;*
25 *unless the authority determines, in writing, that the violation*
26 *constitutes a severe and imminent threat to the health or safety of*
27 *the pupils.*

28 ~~(e) Prior to~~

29 (g) *Before revoking a charter for failure to remedy a violation*
30 *pursuant to subdivision-(d) (f), and after expiration of the school's*
31 *reasonable opportunity to remedy without successfully remedying*
32 *the violation, the chartering authority shall provide a written notice*
33 *of intent to revoke and notice of facts in support of revocation to*
34 *the charter school. No later than 30 days after providing the notice*
35 *of intent to revoke a charter, the chartering authority shall hold a*
36 *public hearing, in the normal course of business, on the issue of*
37 *whether evidence exists to revoke the charter. No later than 30*
38 *days after the public hearing, the chartering authority shall issue*
39 *a final decision to revoke or decline to revoke the charter, unless*
40 *the chartering authority and the charter school agree to extend the*

1 issuance of the decision by an additional 30 days. The chartering
2 authority shall not revoke a charter, unless it makes written factual
3 findings supported by substantial evidence, specific to the charter
4 school, that support its findings.

5 ~~(f)~~

6 *(h)* (1) If a school district is the chartering authority and it
7 revokes a charter pursuant to this section, the charter school may
8 appeal the revocation to the county board of education within 30
9 days following the final decision of the chartering authority.

10 (2) The county board may reverse the revocation decision if the
11 county board determines that the findings made by the chartering
12 authority under subdivision~~(e)~~ *(g)* are not supported by substantial
13 evidence. The school district may appeal the reversal to the state
14 board.

15 (3) If the county board does not issue a decision on the appeal
16 within 90 days of receipt, or the county board upholds the
17 revocation, the charter school may appeal the revocation to the
18 state board.

19 (4) The state board may reverse the revocation decision if the
20 state board determines that the findings made by the chartering
21 authority under subdivision~~(e)~~ *(g)* are not supported by substantial
22 evidence. The state board may uphold the revocation decision of
23 the school district if the state board determines that the findings
24 made by the chartering authority under subdivision~~(e)~~ *(g)* are
25 supported by substantial evidence.

26 ~~(g)~~

27 *(i)* (1) If a county office of education is the chartering authority
28 and the county board revokes a charter pursuant to this section,
29 the charter school may appeal the revocation to the state board
30 within 30 days following the decision of the chartering authority.

31 (2) The state board may reverse the revocation decision if the
32 state board determines that the findings made by the chartering
33 authority under subdivision~~(e)~~ *(g)* are not supported by substantial
34 evidence.

35 ~~(h)~~

36 *(j)* If the revocation decision of the chartering authority is
37 reversed on appeal, the agency that granted the charter shall
38 continue to be regarded as the chartering authority.

39 ~~(i)~~

(k) During the pendency of an appeal filed under this section, a charter school, whose revocation proceedings are based on paragraph (1) or (2) of subdivision-(e) (e), shall continue to qualify as a charter school for funding and for all other purposes of this part, and may continue to hold all existing grants, resources, and facilities, in order to ensure that the education of pupils enrolled in the school is not disrupted.

~~(j)~~

(l) Immediately following the decision of a county board to reverse a decision of a school district to revoke a charter, the following shall apply:

(1) The charter school shall qualify as a charter school for funding and for all other purposes of this part.

(2) The charter school may continue to hold all existing grants, resources, and facilities.

(3) Any funding, grants, resources, and facilities that had been withheld from the charter school, or that the charter school had otherwise been deprived of use, as a result of the revocation of the charter shall be immediately reinstated or returned.

~~(k)~~

(m) A final decision of a revocation or appeal of a revocation pursuant to subdivision-(e) (e) shall be reported to the chartering authority, the county board, and the department.

SEC. 5. Section 47614.5 of the Education Code is amended to read:

47614.5. (a) The Charter School Facility Grant Program is hereby established, and shall be administered by the department. The grant program is intended to provide assistance with facilities rent and lease costs for pupils in charter schools.

(b) Subject to the annual Budget Act, eligible schools shall receive an amount of up to, but not more than, ~~seven hundred fifty dollars (\$750)~~ *eight hundred dollars (\$800)* per unit of average daily attendance, as certified at the second principal apportionment, to provide an amount of up to, but not more than, 75 percent of the annual facilities rent and lease costs for the charter school. In any fiscal year, if the funds appropriated for the purposes of this section by the annual Budget Act are insufficient to fund the approved amounts fully, the Superintendent shall apportion the available funds on a pro rata basis.

(c) For purposes of this section, the department shall do all of the following:

(1) Inform charter schools of the grant program.

(2) Upon application by a charter school, determine eligibility, based on the geographic location of the charter schoolsite, pupil eligibility for free or reduced price meals, and a preference in admissions, as appropriate. Eligibility for funding shall not be limited to the grade level or levels served by the school whose attendance area is used to determine eligibility. Charter schoolsites are eligible for funding pursuant to this section if the charter schoolsite meets either of the following conditions:

(A) The charter schoolsite is physically located in the attendance area of a public elementary school in which 70 percent or more of the pupil enrollment is eligible for free or reduced priced meals and the schoolsite gives a preference in admissions to pupils who are currently enrolled in that public elementary school and to pupils who reside in the elementary school attendance area where the charter schoolsite is located.

(B) Seventy percent or more of the pupil enrollment at the charter schoolsite is eligible for free or reduced price meals.

(C) In any year in which additional funds remain after state and federal funds have been allocated to applicants that meet the eligibility criteria in subparagraph (A) or (B), the department shall expand eligibility to additional schools that are eligible pursuant to subparagraph (B) by reducing the free and reduced-price meals threshold one percentage point at a time, but in no case below 50 percent, until all available funds are allocated.

(3) Inform charter schools of their grant eligibility.

(4) Allocate funding to charter schools for eligible expenditures in a timely manner.

~~(5) No later than June 30, 2005, report to the Legislature on the number of charter schools that have participated in the grant program pursuant to the expanded eligibility prescribed in paragraph (2). In addition, the report shall provide recommendations and suggestions on improving the grant program.~~

(d) Funds appropriated for purposes of this section shall not be apportioned for any of the following:

(1) Units of average daily attendance generated through nonclassroom-based instruction as defined by paragraph (2) of subdivision (d) of Section 47612.5 ~~or that does not comply with~~

1 ~~conditions or limitations set forth in regulations adopted by the~~
2 ~~state board pursuant to this section.~~ *unless the charter school*
3 *operates facilities that provide direct instruction and support to*
4 *pupils enrolled in the school and the facility and charter school*
5 *meet all other eligibility requirements of this section. A charter*
6 *school that is eligible pursuant to this paragraph shall receive*
7 *funds in accordance with subdivision (b) but only for those portions*
8 *of the facility that are used for direct instruction and support. The*
9 *department shall expand eligibility to these schools only in a year*
10 *in which state and federal funds have been allocated to applicants*
11 *that meet the eligibility criteria in subparagraphs (A), (B), and*
12 *(C) of paragraph (2) of subdivision (c). For purposes of calculating*
13 *eligible funding for a school under this paragraph, the average*
14 *daily attendance of the school shall be reduced by the portion of*
15 *its average daily attendance that is generated through*
16 *nonclassroom-based instruction, as defined in paragraph (2) of*
17 *subdivision (e) of Section 47612.5 and as reported pursuant to*
18 *subdivision (c) of Section 47634.2.*

19 ~~(2) Charter schools occupying~~ *school facility costs associated*
20 *with existing school district or county office of education facilities.*

21 ~~(3) Charter schools receiving~~ *school facility costs associated*
22 *with reasonably equivalent facilities from their chartering authority*
23 *pursuant to Section 47614.*

24 (e) Funds appropriated for purposes of this section shall be used
25 for costs associated with facilities rents and leases, consistent with
26 the definitions used in the California School Accounting Manual.
27 These funds also may be used for costs, including, but not limited
28 to, costs associated with remodeling buildings, deferred
29 maintenance, initially installing or extending service systems and
30 other built-in equipment, and improving sites.

31 (f) If an existing charter school located in an elementary
32 attendance area in which less than 50 percent of pupil enrollment
33 is eligible for free or reduced price meals relocates to an attendance
34 area identified in paragraph (2) of subdivision (c), admissions
35 preference shall be given to pupils who reside in the elementary
36 school attendance area into which the charter school is relocating.

37 (g) The Superintendent annually shall report to the state board
38 regarding the use of funds that have been made available during
39 the fiscal year to each charter school pursuant to the grant program.

1 (h) ~~It is the intent of the Legislature that not less than eighteen~~
2 ~~million dollars (\$18,000,000) annually be appropriated for purposes~~
3 ~~of the grant program on the same basis as other elementary and~~
4 ~~secondary education categorical programs.~~

5 (i)

6 (h) The Superintendent shall annually allocate the facilities
7 grants to eligible charter schools no later than October 1 of each
8 fiscal year or 90 days after enactment of the annual Budget Act,
9 whichever is later, for the current school year rent and lease costs.
10 However, the department shall first use the funding appropriated
11 for this program to reimburse eligible charter schools for
12 unreimbursed rent or lease costs for the prior school year.

13 SECTION 1. ~~Section 47607 of the Education Code is amended~~
14 ~~to read:~~

15 ~~47607. (a) (1) A charter may be granted pursuant to Sections~~
16 ~~47605, 47605.5, and 47606 for a period not to exceed five years.~~
17 ~~A charter granted by the governing board of a school district, a~~
18 ~~county board of education, or the state board may be granted one~~
19 ~~or more subsequent renewals by that entity. Each renewal shall be~~
20 ~~for a period of five years. A material revision of the provisions of~~
21 ~~a charter petition may be made only with the approval of the~~
22 ~~authority that granted the charter. The authority that granted the~~
23 ~~charter may inspect or observe any part of the charter school at~~
24 ~~any time.~~

25 ~~(2) Renewals and material revisions of charters are governed~~
26 ~~by the standards and criteria in Section 47605, and shall include,~~
27 ~~but not be limited to, a reasonably comprehensive description of~~
28 ~~any new requirement of charter schools enacted into law after the~~
29 ~~charter was originally granted or last renewed.~~

30 ~~(b) The authorizer of a charter school that has been in operation~~
31 ~~for at least four years shall not consider or grant the renewal of~~
32 ~~the school's charter unless the school, based on data available as~~
33 ~~of October 1 of the fiscal year of the renewal, meets at least one~~
34 ~~of the following criteria:~~

35 ~~(1) An Academic Performance Index (API) score of at least 700~~
36 ~~in the most recent year.~~

37 ~~(2) A cumulative API growth of at least a total of 30 points over~~
38 ~~the last three API cycles. For purposes of this paragraph, API~~
39 ~~growth for one cycle is the difference between a current year~~
40 ~~growth API and the prior year's base API. The growth required~~

1 pursuant to this paragraph shall not be measured as the difference
2 between the most recent growth API score and the growth API
3 score from three years prior to that score.

4 (3) A rank in any decile between 6 to 10, inclusive, on the API
5 for a demographically comparable school in the prior year or in
6 two of the last three years for which demographically comparable
7 school ranks are available. A school that does not generate a
8 demographically comparable school rank is ineligible to meet this
9 criterion.

10 (4) Participation in the alternative accountability system pursuant
11 to subdivision (h) of Section 52052.

12 (5) Receipt of a positive determination of academic eligibility
13 for renewal from the state board within the prior 12 months.

14 (c) (1) A charter school that does not meet at least one of the
15 criteria set forth in paragraphs (1) to (4), inclusive, of subdivision
16 (b) may apply to the state board for a determination of academic
17 eligibility for the renewal of its charter by submitting evidence of
18 the school's academic success. Evidence supporting an application
19 may include, but is not limited to, information on individual pupil
20 achievement, including longitudinal data that demonstrate
21 individual pupil progress, analysis of similar pupil populations, or
22 other relevant data as determined by the school.

23 (2) The advisory committee created pursuant to subdivision (b)
24 of Section 47634.2 shall publicly hear an application for a
25 determination of academic eligibility for the renewal of a charter,
26 and shall make a recommendation to the state board on the
27 application.

28 (3) The state board shall issue a positive determination of
29 academic eligibility if the state board finds that the charter school
30 adequately demonstrates that the academic performance of the
31 charter school meets or exceeds its predicted performance based
32 on a statistical evaluation of similar pupil populations.

33 (d) A charter may be revoked by the authority that granted the
34 charter under this chapter if the authority finds, through a showing
35 of substantial evidence, that the charter school did any of the
36 following:

37 (1) Committed a material violation of any of the conditions,
38 standards, or procedures set forth in the charter.

39 (2) Failed to meet or pursue any of the pupil outcomes identified
40 in the charter.

1 ~~(3) Failed to meet generally accepted accounting principles, or~~
2 ~~engaged in fiscal mismanagement.~~

3 ~~(4) Violated any provision of law.~~

4 ~~(e) Before revocation, the authority that granted the charter shall~~
5 ~~notify the charter public school of any violation of this section and~~
6 ~~give the school a reasonable opportunity to remedy the violation,~~
7 ~~unless the authority determines, in writing, that the violation~~
8 ~~constitutes a severe and imminent threat to the health or safety of~~
9 ~~the pupils.~~

10 ~~(f) Before revoking a charter for failure to remedy a violation~~
11 ~~pursuant to subdivision (e), and after expiration of the school's~~
12 ~~reasonable opportunity to remedy without successfully remedying~~
13 ~~the violation, the chartering authority shall provide a written notice~~
14 ~~of intent to revoke and notice of facts in support of revocation to~~
15 ~~the charter school. No later than 30 days after providing the notice~~
16 ~~of intent to revoke a charter, the chartering authority shall hold a~~
17 ~~public hearing, in the normal course of business, on the issue of~~
18 ~~whether evidence exists to revoke the charter. No later than 30~~
19 ~~days after the public hearing, the chartering authority shall issue~~
20 ~~a final decision to revoke or decline to revoke the charter, unless~~
21 ~~the chartering authority and the charter school agree to extend the~~
22 ~~issuance of the decision by an additional 30 days. The chartering~~
23 ~~authority shall not revoke a charter, unless it makes written factual~~
24 ~~findings supported by substantial evidence, specific to the charter~~
25 ~~school, that support its findings.~~

26 ~~(g) (1) If a school district is the chartering authority and it~~
27 ~~revokes a charter pursuant to this section, the charter school may~~
28 ~~appeal the revocation to the county board of education within 30~~
29 ~~days following the final decision of the chartering authority.~~

30 ~~(2) The county board may reverse the revocation decision if the~~
31 ~~county board determines that the findings made by the chartering~~
32 ~~authority under subdivision (f) are not supported by substantial~~
33 ~~evidence. The school district may appeal the reversal to the state~~
34 ~~board.~~

35 ~~(3) If the county board does not issue a decision on the appeal~~
36 ~~within 90 days of receipt, or the county board upholds the~~
37 ~~revocation, the charter school may appeal the revocation to the~~
38 ~~state board.~~

39 ~~(4) The state board may reverse the revocation decision if the~~
40 ~~state board determines that the findings made by the chartering~~

1 authority under subdivision (f) are not supported by substantial
2 evidence. The state board may uphold the revocation decision of
3 the school district if the state board determines that the findings
4 made by the chartering authority under subdivision (f) are
5 supported by substantial evidence.

6 (h) (1) If a county office of education is the chartering authority
7 and the county board revokes a charter pursuant to this section,
8 the charter school may appeal the revocation to the state board
9 within 30 days following the decision of the chartering authority.

10 (2) The state board may reverse the revocation decision if the
11 state board determines that the findings made by the chartering
12 authority under subdivision (f) are not supported by substantial
13 evidence.

14 (i) If the revocation decision of the chartering authority is
15 reversed on appeal, the agency that granted the charter shall
16 continue to be regarded as the chartering authority.

17 (j) During the pendency of an appeal filed under this section, a
18 charter school, whose revocation proceedings are based on
19 paragraph (1) or (2) of subdivision (d), shall continue to qualify
20 as a charter school for funding and for all other purposes of this
21 part, and may continue to hold all existing grants, resources, and
22 facilities, in order to ensure that the education of pupils enrolled
23 in the school is not disrupted.

24 (k) Immediately following the decision of a county board to
25 reverse a decision of a school district to revoke a charter, the
26 following shall apply:

27 (1) The charter school shall qualify as a charter school for
28 funding and for all other purposes of this part.

29 (2) The charter school may continue to hold all existing grants,
30 resources, and facilities.

31 (3) Any funding, grants, resources, and facilities that had been
32 withheld from the charter school, or that the charter school had
33 otherwise been deprived of use, as a result of the revocation of the
34 charter shall be immediately reinstated or returned.

35 (l) A final decision of a revocation or appeal of a revocation
36 pursuant to subdivision (d) shall be reported to the chartering
37 authority, the county board, and the department.

38 SEC. 2. Section 47607.5 of the Education Code is amended to
39 read:

1 ~~47607.5.—If either a school district governing board or a county~~
2 ~~board of education, as a chartering agency, does not grant a renewal~~
3 ~~to a charter school pursuant to Section 47607 and the charter school~~
4 ~~is eligible for renewal pursuant to subdivision (b) of Section 47607,~~
5 ~~the charter school may submit its application for renewal pursuant~~
6 ~~to the procedures pertaining to a denial of a petition for~~
7 ~~establishment of a charter school, as provided in subdivision (j)~~
8 ~~of Section 47605.~~

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